

Definition of Journalist

Argument: The definition of a journalist is too broad, would cover all bloggers, whether they are a journalist or not. It would also protect foreign terrorists or criminals trying to shield themselves from law enforcement by posing as journalists.

Response:

- The Manager's Amendment only applies to a person who **“regularly”** engages in the listed journalistic activities – such as gathering and publishing news and information for dissemination to the public – and who does so **“for a substantial portion of the person's livelihood or for substantial financial gain.”**
- These changes limit the scope of who can claim the shield as a journalist..
- The offenses that the DOJ claimed in its letter to the House, such as child pornography and selling stolen credit cards, are defined as crimes elsewhere in the federal code, and this bill doesn't alter that fact or confer any immunity to such conduct. Nor could such activities by any stretch be deemed to fall within the statutory definitions of “covered person” and “journalism.”
- There have been State shield statutes on the books for years, and State courts have routinely decided whether a person or entity qualifies as a journalist under the applicable statutory language. Courts make decisions of that nature every day. There is no reason to doubt the ability of our Federal courts to apply the FFIA statutory language to the facts of the cases before them – and to avoid the absurd results suggested by DOJ's hypotheticals.
- The Manager's Amendment also adds three new exceptions to the definition of “covered person” to respond to the DOJ's concern that the previous version of the bill could be exploited by “the Media Wing of a Terrorist Organization.” *See id.* at p. 6. These three changes, along with the exceptions adopted when the bill was reported out of the committee, make clear that the “covered person” definition does NOT apply to:
 - “any person who is a foreign power or agent of a foreign power” as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978;
 - “any organization designated by the Secretary of State as a foreign terrorist organization” as described in section 219 of the Immigration and Nationality Act;
 - “any person included on the Annex to the Executive Order 13224.” (This means the definition does not protect terrorists and their financial supporters.);
 - “any person who is a specially designated terrorist” under 31 U.S.C. 595.31;
 - “any terrorist organization, as that term is defined in section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act.”
- These five exceptions make it undeniably clear that terrorists are not protected by the bill's definition of a “covered person.”